

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

U.S. TRUST COMPANY, N.A., in its
capacity as Plan Administrator and Trustee of
the Arthur D. Little, Inc Employees' MDT
Retirement Plan,

Plaintiff,

v.

KARL P. FAGANS, and GARY BECK,

Defendants.

Civil Action
No. 05-CV-10013 (WGY)

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT

Pursuant to Fed. R. Civ. P. 55(b)(1), plaintiff U.S. Trust Company, N.A. ("U.S. Trust") hereby moves that Default Judgment be entered against defendants Karl P. Fagans ("Fagans") and Gary Beck ("Beck") in the form accompanying this motion.¹ In support of this motion, U.S. Trust relies on the accompanying affidavits of Jennifer Sparrow and Joseph F. Hardcastle and further states:

1. In accordance with Fed. R. Civ. P. 55 (a), on June 19, 2006 the clerk entered the default of Fagans and Beck.
2. Plaintiff's claims against the defendants are for sums certain as restitution for inadvertent excess distributions of retirement benefits made to them.
3. As set forth in the affidavit of Jennifer Sparrow, Fagans received excess distributions in the total amount of \$43,434.32.

¹ U.S. Trust recognizes that Fagans filed an answer to the complaint after default was entered against him. Although such action raises the possibility of the entry of default against Fagans being set aside, because the entry of default has not yet been set aside by the Court, and in light of the need to move in a timely manner for default judgment under the Court's applicable Standing Order, U.S. Trust moves for default judgment against both defendants.

4. As set forth in the affidavit of Jennifer Sparrow, Beck received excess distributions in the total amount of \$62,204.74.

5. As set forth in the affidavit of Joseph F. Hardcastle, the taxable costs incurred to date by U.S. Trust in this action are limited to the Complaint filing fee paid to the Court in the amount of \$150.00.

WHEREFORE, U.S. Trust requests that Default Judgment be issued against Fagans in the principal amount of \$43,434.32 and against Beck in the principal amount of \$62,204.74, with costs in the amount of \$150.00.

HARDCASTLE & SHOBER

/s/ Joseph F. Hardcastle
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June 28, 2006

Certificate of Service

I hereby certify that this document and the accompanying affidavits and Form of Default Judgment have been filed through the ECF system, which will send notification of such filing to the attorneys of record in this matter for defendant Fagans and that paper copies of the document have been mailed by first class mail to defendant Beck.

/s/ Joseph F. Hardcastle
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